

IN THE MATTER OF ARBITRATION BETWEEN:

THE AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES,
COUNCIL 238, AFL-CIO,

Union,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY,

Agency.

Fair Labor Standards Act ("FLSA")
Grievance of the Parties

PARTIAL SETTLEMENT AGREEMENT ON FLSA RECLASSIFICATION

This Partial Settlement Agreement is entered into by and between the U.S. Environmental Protection Agency ("Agency"), and the American Federation of Government Employees, AFL-CIO, Council 238 ("Union"), collectively referred to as the "Parties." The Union has filed an FLSA Grievance, on or about August 22, 2008, alleging violations of the FLSA, the Collective Bargaining Agreement ("CBA"), and 5 U.S.C. Chapter 55, on behalf of all bargaining unit employees represented by the Union from three years prior to the date of filing of the Grievance until the date of final resolution of the Grievance. Since the filing of the Grievance, the Parties engaged in settlement negotiations in an effort to narrow the scope of the Grievance. The Parties wish to enter into a Partial Settlement Agreement resolving the FLSA classification of employees and positions subject to the Grievance, and to defer until a later time negotiations on potential damages and other monetary issues.

The Parties stipulate that their signatories have actual authority to enter into this Agreement and to bind their respective Party.

Now Therefore, the Parties Mutually Agree as Follows:

Coverage

This Agreement addresses the FLSA classification of Bargaining Unit positions identified in the attached **Appendices A and B**, which the Parties intend to be changed from FLSA Exempt to FLSA Non-exempt or, if already Non-exempt, maintained as FLSA Non-exempt. This agreement also addresses the current FLSA classification of Bargaining Unit employees identified in **Appendices C and D**, which the Parties intend to be changed from FLSA Exempt to FLSA Non-exempt. To the extent that the position occupied by any employee identified in Appendices C and D is reclassified at any time after the execution of this Partial Settlement Agreement, the FLSA exemption status of

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the employee's reclassified position will be determined in accordance with applicable statutes and regulations.

This Agreement does not address damages for the positions/employees identified in Appendices A through D or for any other positions/employees. The Parties intend for this to be a complete resolution of the FLSA classification status of all bargaining unit positions/employees represented by the Union from three years prior to the date of filing of the Grievance until the date of final resolution of the Grievance.

Reclassification as Non-Exempt

The Agency agrees to reclassify to FLSA Non-exempt status those bargaining unit positions specified in **Appendices A and B**. To the extent that those positions are already classified as FLSA Non-exempt, the Agency agrees that those positions shall remain FLSA Non-exempt. The Agency also agrees to reclassify to FLSA Non-exempt status those employees specified in **Appendices C and D**.

The Agency agrees to take the foregoing actions, in the Agency's PeoplePlus electronic payroll system, no later than 90 days after the execution of this agreement by the Parties. Bargaining unit employees occupying positions identified in **Appendices A and B**, and those employees identified in **Appendices C and D**, shall be treated as FLSA nonexempt upon reclassification. During the reclassification period, the referenced employees who are currently FLSA exempt will remain and be treated as exempt. Notice will be given to the Union when employees/positions are reclassified as FLSA Non-exempt.

If, prior to the execution of a final Agreement on damages or a final determination regarding damages, additional employees/positions are identified which have not been addressed in this Partial Settlement Agreement either at any time from three years prior to the date of filing of the Grievance until the date of execution of a final Global Agreement, or final determination regarding damages, the Parties agree to deal in good faith in resolution of those employees/positions.

Damages, Attorney Fees

The Parties agree that the issues of damages (including the retroactive date of damages) and attorney fees have not yet been resolved, and will be addressed by the Parties separately at a later date. Neither Party waives any arguments or defenses by entering into this Agreement.

Jurisdiction over Noncompliance

The Parties agree that they have made representations to each other and that those representations have been relied upon to reach settlement of this matter and agree that if any of those representations are found hereafter to have been erroneous in any material respect, that the material misrepresentation may be brought to the Arbitrator for



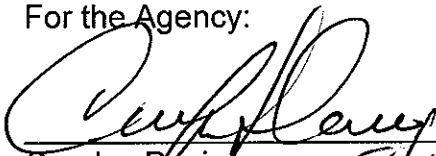
an equitable resolution. Any allegation by the Union that the Agency has failed to provide the Union with name(s) or data, or that the Agency has provided inaccurate data, may be brought to an Arbitrator for an equitable resolution.

In the event that a dispute arises regarding the terms of this Agreement or over the implementation of this Agreement, the Unions and Agency agree to attempt to mutually resolve the dispute. The Party alleging a dispute shall notify the other Party in writing, within thirty (30) calendar days from the date the issue giving rise to the dispute is known, or should reasonably have been known, to the raising Party. If the Unions and Agency are unable to mutually resolve their dispute within thirty (30) calendar days from the date of the Union's or Agency's notification to the other party of the existence of a dispute, the Parties agree to submit the dispute to an Arbitrator selected under the CBA between the Parties.

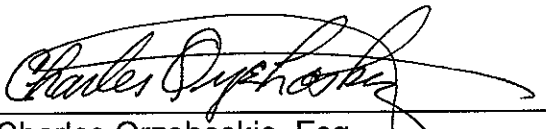
The Parties agree that such a duly selected Arbitrator shall retain jurisdiction over the remaining aspects of the Grievance/Arbitration and over any allegations of noncompliance with this Agreement.

Executed on July 29, 2011.

For the Agency:


Carolyn Davis
Agency Representative 8/10/11

For the Union:


Charles Orzechoskie, Esq.
President, AFGE Council 238


Thomas E. Link
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